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10/553,112	07/25/2006	Martin Kieren	10191/4153	1892

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EXAMINER	
NGUYEN, CHUONG P	

ART UNIT	PAPER NUMBER
3663	

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07/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/553,112	KIEREN ET AL.	
	Examiner	Art Unit	
	Chuong P. Nguyen	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-29* is/are pending in the application.

4a) Of the above claim(s) *20-25* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-19 and 26-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Applicants' 03/09/2009 Amendment, which directly amended claim 12; added new claim 29; and traversed the rejection of the claims of the 12/09/2008 Office Action are acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 12-19 and 26-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 12, the limitation of "*predetermined driving situations*" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Page 7, line 26 – page 8, line 2 of the specification provides only general details and fails to set forth the description of how or in what manner the estimation process can establish which predetermined driving situations deemed to be favorable or meaningful to the estimation process.

Other claims are also rejected based on their dependency of the defected parent claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 12-16 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobaru et al (US 6,438,463) in view of Faye et al (US 20020069006).

Regarding claim 12, as best understood, Tobaru et al disclose in Fig 11-12 a method for a rollover stabilization of a vehicle in a critical driving situation, comprising: measuring different driving-condition variables by a sensor system (i.e. lateral acceleration sensor 15, rolling angular speed sensor 16, steering angle sensor 17) (col 8, line 57-63; col 13, lines 16-20); and estimating, only in predetermined driving situations the information from a relationship between a steering variable and a roll variable (i.e. broadly read on the changed of the threshold value lines based on the steering angle and critical rolling angular speed), the information relating to a rollover

tendency of the vehicle and being taken into account in a scope of the rollover stabilization (col 12, line 64 – col 14, line 55). Tobaru et al do not explicitly disclose the step of causing an actuator to intervene with a rollover-stabilization algorithm in a vehicle operation in a situation critical to rollover, in order to stabilize the vehicle. Faye et al teach in the same field of endeavor in Fig 2 such step of causing an actuator (i.e. actuator system 202 which includes engine intervention, brake intervention, retarder) to intervene with a rollover-stabilization algorithm in a vehicle operation in a situation critical to rollover, in order to stabilize the vehicle (Abstract; [0010]+; [0026]+; [0033]+; [0062]-[0065]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such step of causing an actuator to intervene with a rollover-stabilization algorithm in a vehicle operation in a situation critical to rollover, in order to stabilize the vehicle as taught by Faye et al in the method of Tobaru et al for stabilizing the vehicle via actuator in a rollover situation since it has been held that if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill (MPEP 2143).

Regarding claims 13-16, the reasons are the same as those stated in section 4 of the previous Office Action dated 12/09/2008.

Regarding claim 29, Tobaru et al disclose the estimation is performed for at least one of a particular transverse acceleration and a particular steering speed col 12, line 64 – col 14, line 55).

7. Claims 17-18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobaru et al modified by Faye et al as applied to claim 12 above, and further in view of Takumi (JP 63116918).

Regarding claims 17-18 and 27, the reasons are the same as those stated in section 5 of the previous Office Action dated 12/09/2008.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tobaru et al modified by Faye et al and Takumi as applied to claim 18 above, and further in view of Ehlbeck et al (US 6,498,976).

Regarding claim 19, the reasons are the same as those stated in section 6 of the previous Office Action dated 12/09/2008, which reasons are herein incorporated.

9. Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobaru et al modified by Faye et al as applied to claim 12 above, and further in view of Takumi and Ehlbeck et al.

Regarding claims 26 and 28, the reasons are the same as those stated in section 7 of the previous Office Action dated 12/09/2008.

10. While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Response to Arguments

11. Applicant's arguments filed 03/09/2009 have been fully considered but they are not persuasive.

Applicant argues that the prior art of Ehlbeck et al do not disclose the weighting function indicating a quality of an estimation as recited in claim 19.

Examiner respectfully disagrees because it appears that Applicant's arguments (page 8 of 03/09/2009 Amendment) rely on the specification for supporting the claim limitations. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition, per MPEP 2111, the claims must be given their broadest reasonable interpretation. Therefore, in Ehlbeck et al (page 9, line 19 - col 10, line 26 in particular), the roll stability advisor (i.e. broadly read on the weighting function as claimed) determine different rollover risk levels (i.e. low, high, critical) of a vehicle based on the comparison with the threshold values (i.e. broadly read on the quality of an estimation as claimed); thus read on the limitation as claimed. Therefore, the rejection based on Ehlbeck et al is still proper.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong P. Nguyen whose telephone number is 571-272-3445. The examiner can normally be reached on M-F, 8:00 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CN

/Jack W. Keith/
Supervisory Patent Examiner, Art Unit 3663